

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,) CR 11-26-M-DWM-1
)
)
Plaintiff,)
)
)
vs.) ORDER
)
)
ANDREW UMHEY,)
)
)
Defendant.)
)

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on September 14, 2011. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error.

McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d

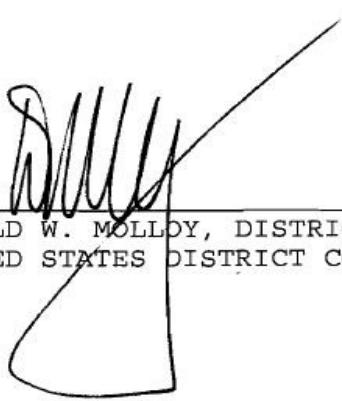
422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Andrew Umhey's guilty plea after Umhey appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of conspiracy to manufacture marijuana in violation of 21 U.S.C. § 846 (Count I), as set forth in the Indictment. In exchange for Defendant's plea, the United States has agreed to dismiss Counts II and III of the Indictment.

I find no clear error in Judge Lynch's Findings and Recommendation (dkt # 34), and I adopt them in full, including the recommendation to defer acceptance of the plea until sentencing when the Court will have reviewed the Presentence Investigation Report.

Accordingly, IT IS HEREBY ORDERED that Andrew Umhey's motion to change plea (dkt # 23) is GRANTED.

DATED this 4th day of October, 2011.



DONALD W. MOLLOY, DISTRICT JUDGE
UNITED STATES DISTRICT COURT